

Turlough O'Donnell SC

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A message to you and encouragement from the mediator.

In my experience mediation works in most cases if you prepare for it and work at it. You are in a dispute, and this means you may be looking back to find fault. Sometimes people can get stuck in the past. Consider now taking time to look forward so you can make the future better for yourself and others.

In this mediation your own voice will be heard. Prepare now by taking a sheet of paper and writing out your needs for the future on one side. On the other side write what you believe are the other party's needs.

The important building blocks for successful mediation are:

- preparation
- confidentiality
- bringing parties together
- allowing people's own voices to be heard
- parties being prepared to move
- the fairness of the mediator in holding the space for dialogue
- **the support of your legal advisors and those you trust**

I have dealt with disputes as a mediator over many years and want to tell you a little bit about how it works. The Mediation Act of 2017 requires me to share my CV with you. See below.

I will keep your information confidential

All parties involved need to know that I will keep information confidential. Confidentiality is designed to allow you to communicate very freely with me as the mediator. I will assume that everything you say to me, even the most minor detail, is confidential. I will not release this information to the other side unless you specifically authorise me to do so. Even then, I will normally release that information in your own words. I will normally have written down what you said and cleared what I wrote with you.

The mediation is intended to be as confidential a process as it can be. However, by law, absolute confidentiality cannot be guaranteed. I encourage you to read about the exceptional circumstances where absolute confidentiality does not apply. You can do this by looking up section 10 (S.10) of the Mediation Act 2017. You should ask your lawyer to explain this section and all the Act to you.

I will focus on solving the problem

I will hold the space so that you can speak and be heard so we can try to find a solution together. This often means changing your mindset from looking back to looking ahead. This can be difficult, but mediation will work better and faster when we start from this point.

I give you my word to protect what you tell me within the law and to be equally fair to everyone.

Professional experience

Accredited mediator, Centre for Effective Dispute Resolution (CEDR), 2008 – present

I have extensive practice in mediation in a broad range of cases including:

- commercial
- tort
- probate
- medical and other negligence
- other areas of law.

I also take part in, and occasionally present at, continuing professional development sessions on mediation.

Facilitation experience, 2008 – present

GAA and GPA

I facilitated discussions between the Gaelic Athletic Association (GAA) and the Gaelic Players Association (GPA). This resulted in agreement recognising the GPA as the player representative body of the GAA. (2009)

An Post and the Irish Postmasters Association

I facilitated discussions between An Post and the Irish Postmasters Association which resulted in a new Postmasters contract with An Post. (2018)

Magdalene Restorative Justice

In 2013, I was a member of the advisory group on the Magdalene Restorative Justice Ex-Gratia Scheme.

Senior Counsel, Bar of Ireland, 1997 – present

I have extensive practice in civil litigation across the Superior Courts. I have represented private and corporate clients. I specialised in personal injury litigation, including medical negligence litigation, for both plaintiffs and defendants. I was entirely independent of those clients and, as is norm at the Irish Bar, acted and act as an independent sole practitioner. Therefore, I have no conflicts of interest unless they arise socially in which case I will of course disclose them.

A sample of cases in which I appeared includes:

- Gough v Neary [2003] 3 IR 92, [2004] 1 ILRM 35, [2003] IESC 39 (Caesarean hysterectomy)
- Kearney v McQuillan & Anor [2010] 3 IR 576, [2010] IESC 20 (Symphysiotomy after successful delivery)
- Walsh v Byrne 2015 WJSC-HC 27928, [2015] IEHC 414 (Gross sexual abuse)

I continue to read and keep up to date with best practice in mediation and negotiation.

Barrister-at-Law, Bar of Ireland,1979-1997

I had an extensive practice as Junior Counsel in many areas of the law including:

- prosecution and defence criminal work
- probate
- land disputes
- general practice

Boards and committee experience

I was Chair of:

- The General Council of the Bar of Ireland
- Arbitration and ADR Committee of the Bar Council
- Temple Street Children's University Hospital Ethics Committee
- Civil Service Arbitration Board

I served as Board Member for:

- Irish Rule of Law International
- Northside Community Law Centre
- Mercy Law Centre
- Glencree Centre for Peace and Reconciliation
- The Irish Council for Bioethics

I am currently chair of Camino Society Ireland CLG. I am also a committee member on the Voluntary Assistance Scheme of the Bar Council and a committee member of the Bar Council's ADR (Alternative Dispute Resolution Committee).

Education

The Honourable Society of King's Inns Barrister-at-Law degree	1977-1979
Bachelor of Civil Law degree, University College Dublin, Ireland	1974-1978
Attendance at University of Cambridge (Trinity Hall)	1975-1976
St Mary's CBS Grammar School, Belfast	1967-1974
CEDR (Accredited Mediator)	2008
Harvard Programme on Negotiation and the Harvard Programme on Negotiation (Master's course)	April 1-3 2019

Honours and awards

- Bencher of the Honourable Society of King's Inns and currently an honorary Bencher.
- Winner of an Individual Speaker in the Irish Times Debating Competition.

Publications

- A chapter: Mediation in Law and Government: A Tribute to Rory Brady (published by Law Books Ireland)
- Podcast with Tommie Gorman on Mediation and the Irish Peace Process – <https://youtu.be/dFpjPaW50G4?si=ArfwP7OcSZm4HMB2>
- Article in Irish Times 2008: Law and Justice: the adversarial system and mediation: <https://www.irishtimes.com/news/crime-and-law/law-and-justice-the-adversarial-system-and-mediation-1.897044>
- https://www.lawlibrary.ie/app/uploads/securepdfs/2024/02/The_Bar_Review_Feb_24_WEB_232.pdf

I invite your feedback

At the end of this process, I would welcome feedback through your solicitor. I would like if you would answer the following question: **If there was one thing the mediator could have done to make the process better, what would it have been?** Thank you in advance.

With best wishes

Turlough O'Donnell